

***United States Court of Appeals
for the Second Circuit***

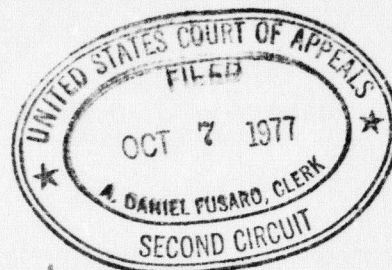


APPENDIX

77-1338

To be argued by
JONATHAN J. SILBERMANN

UNITED STATES COURT OF APPEALS
FOR THE SECOND CIRCUIT



-----x
:
UNITED STATES OF AMERICA, :
:
Plaintiff-Appellee, :
:
-against- :
:
RAFAEL JESUS ALEJANDRO, :
:
Defendant-Appellant. :
:
-----x

Docket No. 77-1338

B
P/S

APPENDIX TO APPELLANT'S BRIEF

ON APPEAL FROM A JUDGMENT
OF THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NEW YORK

MARTIN ERDMANN, ESQ.,
THE LEGAL AID SOCIETY,
Attorney for Appellant
FEDERAL DEFENDER SERVICES UNIT
509 United States Courthouse
Foley Square
New York, New York 10007
(212) 732-2971

JONATHAN J. SILBERMANN,
Of Counsel.

PAGINATION AS IN ORIGINAL COPY

U.S. TITLE/SECTION OFFENSES CHARGED ORIGINAL COUNTS
T-2:841(a)(1); Did conspire to possess and distribute 7
846 quantities of cocaine and heroin hydrochloride

U.S. MAG. CASE NO.
BAIL - RELEASE
☐ Denied ☐ AMT ☐ Fugitive
☐ Set ☐ Pers. Recog.
☐ PSA
\$ 000 conditions
Date ☐ 10% Deposit
☐ Surety Bond
☐ Bail Not Made ☐ Collateral
☐ Status Change (See Docket) ☐ 3rd ☐ Pny Cust ☐ Other

II. KEY DATES & INTERVALS

ARREST or INDICTMENT X ARRAIGNMENT TRIAL
U.S. Custody Began High Risk Date Information 3/11/77
Summons Served Indict. Waived
First Appearance In Charging District
Superseding Indictment
1st Plea 3/11/77
Final Plea 4.18.77
Trial Set For
Vair Dire
Trial Began
Trial Ended

SENTENCE
Disposition of Charges 4/1/77
Convicted
Acquitted
Dismissed
On All Charges
On Lesser Offense(s)
WOP: WP
On Government's Motion

MAGISTRATE
Search Warrant Issued Return
Summons Issued Served
Arrest Warrant Issued
COMPLAINT
OFFENSE (In Complaint)
DATE INITIAL/NO.
INITIAL APPEARANCE DATE
PRELIMINARY EXAMINATION OR Date Scheduled Date Held
REMOVAL HEARING
WAIVED NOT WAIVED
INTERVENING INDICTMENT
Tape Number
OUTCOME
DISMISSED
HELD FOR GJ OR OTHER PROCEEDING IN THIS DISTRICT
HELD FOR GJ OR OTHER PROCEEDING IN DISTRICT BELOW

U.S. Attorney or Asst.

ATTORNEYS

Defense XX JA Ret. Waived Self. None Other PD CD

SHEPARD

F. Louis Caraballo, Esq.
701 Broadway,
Brooklyn, New York 11206

* Show last names and suffix numbers of other defendants on same indictment/information:

DATE	DOCUMENT NO.	PROCEEDINGS
3/11/77		Before CATOGGIO, J.- Indictment filed.
3/11/77		By CATOGGIO, J.- Bench warrant ordered and issued.
3-17-77		Before Bramwell, J - Case called - deft brought into court on a bench warrant - deft present - without attorney - court enters a plea of not guilty for the deft - bail fixed at \$20,000. Adjd to 3-18-77 for assignment of counsel. Warrant returned and filed - executed.
3/18/77		By BRAMWELL, J.- Writ issued.
3.18.77		Before Bramwell, J.- Case Called. Deft. present without Counsel. Court assigns Counsel for Deft. Deft. arraigned and enters a plea of not guilty. Bail con- tinued. 4.22.77 for Motions and case adjd. to 5.11.77 at 10:00 A.M. for Trial.
3.21.77		By Bramwell, J.- Order filed appointing Counsel for Deft.
3.21.77		Financial Affidavit filed.
3-23-77		Writ retd and filed -executed.
3-31-77		By Bramwell, J - Writ Issued

EXCLUDABLE DELAY

DATE	PROCEEDINGS (continued)	PAGE 11	V. EXCLUDABLE DELAY
4/1/77	Before BRAMWELL, J.- Case called. Deft & Counsel present. Deft withdraws his plea of not guilty and having been advised of his rights by the court and on his own behalf and through interpreter enters a plea of guilty to count 3. Court finds that there is a factual basis for the plea. Bail continued and sentence adjd without date.		
4-6-77	Transcript filed dated 4-1-77		
4.12.77	Writ of Habeas Corpus Ad Prosequendum returned and filed. Deft. Executed.		
4/20/77	Before Bramwell, J--case called deft Rafael Alejandro & counsel present application for reduction of bail is denied.JLJ		
5-20-77	Before BRAMWELL, J-case called - deft & atty Luis Caraballo & interpreter L.Clancy present - deft sentenced to imprisonment for 5 years plus special parole term of 5 years on count (3).		
5-20-77	Judgment & commitment filed - certified copies to Marshal		
5-20-77	Writ retd and filed - executed.		
5/26/77	Judgment & commitment ret & filed. Deft delivered to MCC.jlj		
5-31-77	Notice of motion filed for reduction of sentence imposed under Rule 35 etc. (ret. June 10, 1977)		
5-31-77	Notice of appeal filed. - Docket entries and duplicate of Notice mailed to the court of appeals.		
6/10/77	Before Bramwell, J-case called motion for reduction of sentence adjd w/o date.jlj		
6-23-77	Judgment & commitment retd and filed - deft. del to F.C.I. Sandstone, Minn.		
8-2-77	By Neaher, J--Order filed that confidential informant reports be made available to the Court for its in-camera review within 10 days of this Order--		
8-15-77	Scheduling order filed that the record on appeal be docketed on or before 8-31-77.		
8.30.77	By Weinstein, J.- Order filed appointing Expert for Services. (V# 160604)		

A TRUE COPY
 ATTEST
 DATED 8/30 1977
 LEWIS ORGEL
 CLERK
 BY: [Signature]
 DEPUTY CLERK

FINE AND RESTITUTION PAYMENTS					
DATE	RECEIPT NUMBER	C.D. NUMBER	DATE	RECEIPT NUMBER	C.D. NUMBER

gp

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

----- X

UNITED STATES OF AMERICA

- against -

ALVARO HENAO,
MARIO AGUDELO STEVENS,
RAFAEL JESUS ALEJANDRO, and
MIGUEL CRUZ,

Defendants.

----- X

THE GRAND JURY CHARGES:

COUNT ONE

On or about the 3rd day of December, 1976, within the Eastern District of New York, the defendant ALVARO HENAO, did knowingly and intentionally distribute approximately 32 grams of cocaine hydrochloride, a Schedule II narcotic drug controlled substance. (Title 21, United States Code, §841(a)(1)).

COUNT TWO

On or about the 21st day of December, 1976, within the Eastern District of New York, the defendant ALVARO HENAO, did knowingly and intentionally distribute approximately 24 grams of cocaine hydrochloride, a Schedule II narcotic drug controlled substance. (Title 21, United States Code, §841(a)(1)).

COUNT THREE

On or about the 25th day of January, 1977, within the Eastern District of New York and elsewhere, the defendants ALVARO HENAO, MARIO AGUDELO STEVENS, and RAFAEL JESUS ALEJANDRO, did knowingly and wilfully conspire to commit an offense against the United States, in violation of Title 21, United States Code, §841(a)(1), by conspiring to knowingly

CLERK'S OFFICE
U.S. DISTRICT COURT E.D. N.Y.
★ MAR 1 / 1977 ★
TIME A.M. _____
P.M. _____

I N D I C T M E N T

Cr. No. _____
(T. 21 U.S.C. §841(a)(1);
§846)

77 CR 136

and intentionally distribute approximately 71 grams of heroin hydrochloride, a Schedule I narcotic drug controlled substance. (Title 21, United States Code, §846).

COUNT FOUR

On or about the 2nd day of March, 1977, within the Eastern District of New York, the defendants ALVARO HENAO and MARIO AGUDELO STEVENS, did knowingly and intentionally distribute approximately 242 grams of cocaine hydrochloride, a Schedule II narcotic drug controlled substance. (Title 21, United States Code, §841(a)(1) and Title 18, United States Code, §2).

COUNT FIVE

On or about and between the 25th day of January, 1977, and the 2nd day of March, 1977, both dates being approximate and inclusive, within the Eastern District of New York, the defendants ALVARO HENAO and MARIO AGUDELO STEVENS did knowingly and wilfully conspire to commit an offense against the United States, in violation of Title 21, United States Code, §841(a)(1), by conspiring to knowingly and intentionally distribute approximately 242 grams of cocaine hydrochloride, a Schedule II narcotic drug controlled substance. (Title 21, United States Code, §846).

COUNT SIX

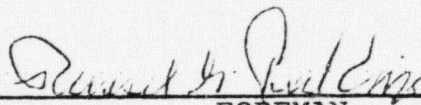
On or about the 2nd day of March, 1977, within the Eastern District of New York, the defendants ALVARO HENAO, MARIO AGUDELO STEVENS, and MIGUEL CRUZ, did knowingly and intentionally distribute approximately 38 grams of heroin hydrochloride, a Schedule I narcotic drug controlled substance. (Title 21, United States Code, §841(a)(1) and Title 18, United States Code, §2).

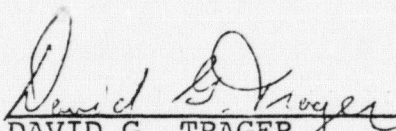
- 3 -

COUNT SEVEN

On or about the 2nd day of March, 1977, within the Eastern District of New York, the defendants ALVARO HENAO, MARIO AGUDELO STEVENS, and MIGUEL CRUZ, did knowingly and wilfully conspire to commit an offense against the United States, in violation of Title 21, United States Code, §841(a)(1), by conspiring to knowingly and intentionally distribute approximately 38 grams of heroin hydrochloride, a Schedule I narcotic drug controlled substance. (Title 21, United States Code, §846).

A TRUE BILL.


FOREMAN


DAVID G. TRAGER
UNITED STATES ATTORNEY
EASTERN DISTRICT OF NEW YORK

FILED
IN CLERK'S OFFICE
U. S. DISTRICT COURT E.D. N.Y.

★ APR 6 1977 ★

TIME A.M.
P.M.

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

-----X

UNITED STATES OF AMERICA,

-against-

77-CR-136

RAFAEL JESUS ALEJANDRO,

Defendant.

-----X

United States Courthouse
Brooklyn, New York

April 1, 1977
10:00 A.M.

B E F O R E :

HONORABLE HENRY BRAMWELL, U.S.D.J.

FOR PLEADING

I hereby certify that the foregoing is
a true and accurate transcript from the
stenographic notes in this proceeding.

Perry Auerbach

Official Court Reporter
U. S. District Court

PERRY AUERBACH
ACTING OFFICIAL COURT REPORTER

(Time noted: 12:00 o'clock noon.)

THE CLERK: U.S.A. v. Alejandro.

THE COURT: Swear in the interpreter.

(Whereupon the interpreter was sworn.)

THE COURT: Mr. Caraballo?

MR. CARABALLO: Yes, your Honor. Apparently the defendant wants to plead guilty. He admits to the Court -- but I think that's been cleared up now.

THE COURT: I see.

Now, what is your full name?

THE DEFENDANT: Alejandro: Rafael Alejandro.

THE COURT: I'll ask the United States attorney, is this also the individual known in 77 CR 136 as Rafael Jesus Alejandro?

MR. MANSFIELD: Yes, your Honor.

THE COURT: It's the same person?

MR. MANSFIELD: Yes.

THE COURT: Thank you.

Now, you tell him that before accepting the plea of guilty the Court must advise him as to his Constitutional rights, the nature of the charge against him and the consequences of his plea.

Now, tell him he has a constitutional right to be represented by an attorney at every stage of

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2 the proceeding, and if necessary, one will be
3 appointed to represent him.

4 He has a right to a speedy and public trial
5 by jury with the assistance of counsel.

6 He has the right to confront and cross-
7 examine the witnesses against him.

8 He has a right to compulsory process, to
9 bring in witnesses on his behalf.

10 He has the right not to incriminate himself
11 by being compelled to testify at the trial.

12 He has the right to plead not guilty or
13 persist in the plea of not guilty, in which event
14 the government will be required to prove his guilt
15 beyond a reasonable doubt, and in the event the
16 government fails, the jury would have the obligation
17 of finding him not guilty.

18 Ask Mr. Alejandro if he understands that if
19 he pleads guilty the Court may ask him questions
20 about the offense to which he offers to plea?

21 THE DEFENDANT: Yes, sir. I understand.

22 THE COURT: Tell him that if the plea of
23 guilty is accepted there will be no trial, so that
24 he will be surrendering and waiving the right to a
25 trial and all those constitutional rights?

1
2 THE DEFENDANT: Yes.

3 THE COURT: Now, let the interpreter see
4 Count 3. I'll read Count 3.

5 On or about the 25th day of January, 1977,
6 within the Eastern District of New York and else-
7 where, the defendants, Alvaro Henao, Mario Agudelo
8 Stevens, Rafael Jesus Alejandro, did knowingly and
9 wilfully conspire to commit an offense against the
10 United States in violation of Title 21 U.S. code
11 Sec. 841 (A) (1) by conspiring to knowingly and
12 intentionally distribute approximately 71 grams of
13 heroin hydrochloride, a Schedule 1 narcot drug
14 controlled substance, in violation of Title 21,
15 U.S. code Sec. 846.

16 Now, ask him if he knows what he's charged
17 with?

18 THE DEFENDANT: Yes, I know what I am
19 charged with, and I participated.

20 THE COURT: Did he do what he is charged
21 with doing in Count 3?

22 THE DEFENDANT: Yes. I participated.

23 THE COURT: Let him tell us what his par-
24 ticipation was.

25 THE DEFENDANT: I talked to them with

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2 with respect to a distribution of quantity mentioned
3 there.

4 THE COURT: Of what quantity?

5 THE DEFENDANT: Of the quantity mentioned
6 here.

7 THE COURT: What was the quantity he talked
8 to them about?

9 THE DEFENDANT: 70 -- it's 71 -- it's some-
10 thing like 70 or 71. I don't remember how much it
11 was, but that was the nature of the talk.

12 THE COURT: Quantity of what?

13 THE DEFENDANT: Well, the quantity was
14 mentioned in grams of narcotics.

15 THE COURT: What narcotics?

16 THE DEFENDANT: Heroin.

17 THE COURT: And who did you talk with?

18 THE DEFENDANT: I talked to one of the persons
19 mentioned here.

20 THE COURT: And what was the purpose of
21 this discussion as to the narcotic drug?

22 THE DEFENDANT: To distribute it.

23 THE COURT: Now, tell him that Count 3
24 charges him with a conspiracy, and conspiracy is
25 an arrangement or agreement between two or more

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2 persons to commit some illegal act, and that in
3 furtherance of the conspiracy they must do something
4 with a view to committing the acts which were
5 agreed upon, the act or acts which were agreed upon,
6 and tell him that a conspiracy does not have to be
7 in writing, but may be agreed upon between the
8 people orally.

9 Tell him as to the crime alleged in Count 3,
10 was there an agreement between two or more people
11 to commit this particular act?

12 THE DEFENDANT: Yes.

13 THE COURT: And was there an understanding
14 that they would commit this act?

15 THE DEFENDANT: Yes.

16 THE COURT: And pursuant to this under-
17 standing, were certain actions taken?

18 THE DEFENDANT: Yes.

19 THE COURT: And where were these actions
20 taken?

21 THE DEFENDANT: I accompanied him to a car.

22 THE COURT: Where was your car at that time?

23 THE DEFENDANT: In the street outside.

24 THE COURT: Outside the street. Where?
25 What street and where was this street at?

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THE DEFENDANT: In Delancey. In Delancey.

3

THE COURT: In Manhattan?

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THE DEFENDANT: In Manhattan.

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(continued next page)

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2 THE COURT: As to the question of jurisdiction,
3 the United States Attorney, what will the proof show?

4 MR. MANSFIELD: Give me a minute, your Honor.

5 THE COURT: Sure.

6 MR. MANSFIELD: Your Honor, the proof will show
7 that the heroin in question was distributed in Brooklyn.

8 THE COURT: I see. And that would be consis-
9 tent with what the proof is for Count Three of this
10 Indictment?

11 MR. MANSFIELD: Yes, your Honor.

12 THE COURT: All right; thank you.

13 Now, ask him when these actions took place
14 with he and the others, when? The date?

15 THE DEFENDANT: 25th of January.

16 THE COURT: What year?

17 THE DEFENDANT: Of this year.

18 THE COURT: Now, as a result of the arrangement
19 and understanding that he had with the others who were
20 involved, what did he do?

21 THE DEFENDANT: I accompanied them in the car,
22 and we arrived as far as Brooklyn.

23 THE COURT: And you came into Brooklyn?

24 THE DEFENDANT: Yes.

25 THE COURT: And he accompanied them in the car

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2 for what purpose?

3 THE DEFENDANT: To reach an agreement as to --
4 as to what would be done to distribute the drug.

5 THE COURT: Now, the drug is heroin; is that
6 true?

7 THE DEFENDANT: Yes.

8 THE COURT: And that's a narcotic drug?

9 THE DEFENDANT: Yes.

10 THE COURT: I see.

11 Now, ask him, have any promises of any kind,
12 including any promise or suggestion as to what sen-
13 tence may be imposed been made to him by his lawyer,
14 the Court or anyone else to induce him to plead guilty?

15 THE DEFENDANT: No.

16 THE COURT: All right.

17 I will ask the United States Attorney, any
18 promises in connection with this plea?

19 MR. MANSFIELD: Yes, Your Honor. One promise
20 has been made. There is pending now in the Southern
21 District of New York an Indictment charging Mr.
22 Alejandro in five counts. It has been represented
23 to Mr. Alejandro through his counsel that upon sen-
24 tencing of Mr. Alejandro on this charge, that the
25 charges in that indictment in the Southern District

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2 will be nulled.

3 THE COURT: I see. Anything else as to the
4 indictment 77-CR-136?

5 MR. MANSFIELD: No further promises, your Honor.

6 THE COURT: Well, is he in --

7 MR. CARABALLO: He's not in any other count.

8 THE COURT: Just in this count. So that's the
9 only promise.

10 MR. MANSFIELD: Yes.

11 THE COURT: Mr. Caraballo, any other promise?

12 MR. CARABALLO: There is no other promises, your
13 Honor, but in the event, we would like to reserve the
14 rights if the charges in New York are not dropped, we
15 don't have a representation from the Attorney in New
16 York, then we would reserve the right to withdraw the
17 plea if those charges are not dropped.

18 I understand we have to get a permission for
19 a nully.

20 THE COURT: Well, those charges will not be
21 dropped until sentencing here. So you wouldn't get
22 that before. You get your sentencing here first.

23 MR. CARABALLO: I understand that, but we have
24 to have an assurance that they will be.

25 THE COURT: I can't give you that assurance.

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2 MR. CARABALLO: I know.

3 THE COURT: I can't give it to you, but you
4 understand, he would have to be sentenced here before
5 the charges could be dropped.

6 MR. CARABALLO: We run into a problem where if
7 the permission to nully the case is not given --

8 THE COURT: Then you make the application that
9 would be, but he would be sentenced here first; do you
10 understand?

11 MR. CARABALLO: Yes. What I don't understand
12 is the sequence of time now.

13 THE COURT: He would be sentenced here first,
14 and then they would be dismissed, and not otherwise;
15 do you understand?

16 MR. CARABALLO: Yes, your Honor.

17 THE COURT: Ask Mr. Alejandro if he under-
18 stands what's before the Court. Does he have any
19 question as to this area?

20 But you understand, Mr. Caraballo, he's to be
21 sentenced here first?

22 MR. CARABALLO: I understand, your Honor. The
23 only precaution --

24 THE COURT: There's no way you can get that one
25 dropped before he's sentenced here. Absolutely no

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2 way that can be done. But then, if they are not
3 dropped, then you can make an application to open them
4 up. But he is to be sentenced here first.

5 MR. CARABALLO: I understand that, your Honor.
6 Then we reserve the right to make the application to
7 open it up in case the charges are not dropped.

8 THE COURT: Then that will be after the sen-
9 tencing, and you know, some other action will be taken;
10 all right?

11 MR. CARABALLO: Yes, your Honor.

12 THE COURT: Now, ask Mr. Alejandro, have you
13 been threatened, or coerced in any way into pleading
14 guilty?

15 THE DEFENDANT: No.

16 THE COURT: Now, ask him if he knows that the
17 maximum sentence which may be imposed is a prison term
18 of 15 years and/or a fine of \$25,000 plus a special
19 parole term of at least three years.

20 THE DEFENDANT: Yes.

21 THE COURT: All right, a special parole term,
22 under this section may be revoked if its terms and
23 conditions are violated. In such circumstances, the
24 original term of imprisonment shall be increased by
25 the period of the special parole term, and the resulting

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2 new term of imprisonment shall not be diminished by the
3 term which was spent on special parole.

4 A person whose special parole term has been
5 revoked, may be required to serve all or part of the
6 remainder of the new term of imprisonment.

7 A special parole term provided for in this
8 section shall be in addition to and not in lieu of
9 any other parole provided for by law.

10 THE INTERPRETER: He had a question with regard
11 to parole.

12 THE COURT: A special parole term is a minimum
13 of three years in this case, but it's in addition to
14 any parole. It's a parole term.

15 THE DEFENDANT: If I'm given an additional parole
16 term, I still have to comply with the three years spe-
17 cial?

18 THE COURT: It's a minimum parole term. It's
19 a minimum of three years in this case.

20 Now, ask Mr. Alejandro, has your lawyer made
21 any prediction or expressed any opinion as to what
22 sentence will be imposed?

23 THE DEFENDANT: Yeah. He more or less told me,
24 he has told me the maximum.

25 THE COURT: What did he tell him as to the

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2 maximum?

3 THE DEFENDANT: 15 and a fine.

4 THE COURT: I see. Now, has he discussed his
5 plea of guilty with his lawyer?

6 THE DEFENDANT: Yes. And I told him that I
7 would plead guilty.

8 THE COURT: All right.

9 Does he understand that he will have the assist-
10 ance of his lawyer at the time sentence is imposed?

11 THE DEFENDANT: Yes.

12 THE COURT: Now, having been advised as to his
13 Constitutional Rights, the nature of the charge against
14 him and the consequences of his plea, how does he
15 plead to Count Three of 77CR136?

16 THE DEFENDANT: Guilty.

17 THE COURT: All right. The Court finds
18 there's a factual basis for the plea and accepts the
19 plea of guilty to County Three of 77CR136.

20 Anything further?

21 MR. MANSFIELD: Your Honor, I wonder if the
22 Court, if it's appropriate for the Court to take its
23 acceptance of the plea agreement?

24 THE COURT: I just did.

25 MR. MANSFIELD: That's part --

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2 THE COURT: The Court finds there's a factual
3 basis for the plea and accepts the plea of guilty to
4 Count Three.

5 MR. CARABALLO: Your Honor, I would like to have
6 an application. He's on \$20,000 bail. He has roots
7 in this country. He's married. He belongs to the
8 Union of Steamfitters' Union. He's a veteran, served
9 in the U. S. Army, and his family can't raise \$20,000.
10 I would like to know if you can reduce that to a 10%
11 surety bond, if possible.

12 THE COURT: Is there anything on that from the
13 Government?

14 MR. MANSFIELD: Yes, your Honor.

15 First of all, your Honor did set at the time of
16 arraignment, bail of \$20,000 surety. That's the same
17 amount that was set in the Southern District of New
18 York.

19 In the Southern District of New York, that amount
20 was increased by Judge Gagliardi. Subsequently, upon
21 a showing to the Court first that Mr. Alejandro had
22 expressed to an agent an intention of posting bond and
23 fleeing, and secondly, there was some indication of a
24 threat to the witness. I had this at this point
25 second hand, through the assistant in the Southern

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2 District.

3 My other point is that your Honor found \$20,000
4 surety an appropriate bail at the time of arraignment,
5 and I would suggest that the threat of flight is all
6 the greater, a plea of guilty having been entered.

7 THE COURT: Anything further, Mr. Caraballo?

8 MR. CARABALLO: Well, your Honor, he still has
9 the bail in the Southern District, and he has indicated
10 to me, that he has no assets, he can't raise anything
11 near that much, and I don't think bail would be
12 intended to punish someone. If what's been told to
13 me, that he could have raised the bail, he probably would
14 have done it by now. He's been incarcerated over 30
15 days.

16 THE COURT: I see. All right, bail is con-
17 tinued. I won't change the bail at this point. Bail
18 continued.

19 A presentence report is ordered. Sentencing
20 to be at such time as the presentence report is before
21 the Court.

22 Thank you.

23 MR. CARABALLO: Thank you.

24 MR. MANSFIELD: Thank you, your Honor.

25 (Whereupon these proceedings were concluded.)

* * *

CERTIFICATE OF SERVICE

Oct 7, 1977

I hereby certify that a copy of this brief and appendix has been mailed to the United States Attorney for the Eastern District of New York.

Jonathan J. Hilberman

